IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No. 708 of 2005

Shri P S Pote and ors..petitioners
vs
State of Mah & anr..Respondents

Shri Suresh Pakale for petitioners
Mr. Y D Mulani AGP for State

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 20.6.2005

P.C:

. Rule. Respondents waive service. By consent, Rule is made returnable forthwith.

2. This petition under Articles 226 and 227 of the Constitution is directed against the judgement and order passed by the Maharashtra Administrative Tribunal dated 9.9.2004 in Original Application No. 8l8 of 2002. The petitioners who are original applicants in the OA were initially appointed as daily rated workmen but later on taken on muster role of Class IV cadre in the Government Milk Scheme Thane. Their contention is that since they have completed 240 days of continuous service,the respondents should have regularised their services from the date they completed 240 days of service. The grievance of the petitioners is that though

they were regularised in the employment of the respondents they were not given the benefit of their past service.. It was pointed out that similarly situated employees from Pune Dairy were given the benefit such as seniority, pay revision, difference in pay, yearly increments, pension etc from the completion of 240 days of service. The tribunal disposed of the original application directing that the respondents shall maintain seniority list of the petitioners alongwith such similarly situated daily rated workers in the milk scheme and shall consider them for regular appointment as and when sanctioned posts are available by giving the relaxation to the extent of the period of temporary service rendered by them.

3. Mr. Pakale, learned counsel appearing for the petitioners submitted that similarly situated workmen approached this court by writing a post card which was converted into a writ petition being Writ Petition No 4756 of l988 and respondents were directed to confirm the workers from the date they completed 240 days of service in the establishment of government milk schemes and further directed the respondents to pay to the workers salary and other service benefits with effect from the date they completed 240 days of service. Mr.Pakale also

brought to our notice that similar Writ Petition No.l347 of l997 filed at Aurangabad Bench in which the learned single Judge directed the respondents to regularise the workers working in the government milk scheme by giving them benefit of permanency on completion of 240 days of service in their respective establishments.

4. Mr.Pakale also invited our attention to the order passed by the Apex Court on 23.7.200l whereby the Special Leave Petitions were dismissed with the following order:

> "In respect of the employees working in the Dairy Development Department of the State of Maharashtra a Suo Moto Writ Petition No.4756 of l988 dated 20.4.l989 had been filed. The learned counsel for the State Government conceded that after completion of 240 days of continuous service the employees are entitled to be confirmed in the post held by him. Since this petition has been conceded and the view taken by the High Court is consistent with that stand we do not think that there is any good reason for us to interfere with the order made by the High Court. The appeal stand dismissed

accordingly"

5. The petitioners are four workers working at Thane establishment. The petitioners have been working right from l974 onwards as can be seen from the case of the petitioner no.4. Petitioner nos. 2 and 3 have been working since l976 whereas the petitioner no l is working since l977.

6. In the light of the aforesaid settled position of law, petitioners are also entitled to similar reliefs. In the result, the judgment and order of the tribunal is quashed and set aside. Respondents are directed to give the status of permanency to the petitioners from the date they had completed 240 days of service in the establishment of the respondents in their respective post and refix them in proper payscale by giving them all benefits as being paid to the regular employees. Rule is accordingly made absolute with no order as to costs.